

PASCUA YAQUI TRIBE OF ARIZONA,	:	Order Docketing and Dismissing Appeal
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 98-61-A
ACTING DIRECTOR, TUCSON AREA	:	
OFFICE, INDIAN HEALTH SERVICE,	:	
Appellee	:	December 28, 1998

On December 23, 1998, the Board of Indian Appeals received a Notice of Appeal from the Pascua Yaqui Tribe of Arizona (Tribe). The Tribe sought review of a November 23, 1998, order issued by Administrative Law Judge Nicholas T. Kuzmack. Judge Kuzmack dismissed as moot the Tribe's appeal from an October 20, 1997, decision issued by the Acting Director, Tucson Area Office, Indian Health Service (IHS), partially declining a proposed Indian Self-Determination Act (ISDA) contract.

Judge Kuzmack's order incorrectly informed the Tribe that it could appeal his decision to this Board. As the Board stated in its March 12, 1998, order referring this matter for a hearing, appeals from decisions issued by Administrative Law Judges which involve matters within the jurisdiction of the IHS are appealable to the Secretary of Health and Human Services (HHS). See 25 C.F.R. § 900.165(b). In accordance with information provided to it by HHS, the Board's order further stated: "Appeals to the Secretary of Health and Human Services will be heard by the HHS Appeals Board, 200 Independence Avenue, S.W., Room 637-D, Washington, DC 20201." The Board also provided the parties with a copy of appeal instructions developed by the HHS Appeals Board.

Although the Tribe's Notice of Appeal shows service on the Secretary of Health and Human Services and this Board, it does not show service on the HHS Appeals Board.

In any event, this Board lacks authority to review Administrative Law Judge decisions arising from decisions made by the IHS.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretaries of the Interior and of Health and Human Services, 25 C.F.R. § 900.165 and 43 C.F.R. § 4.1, this appeal is docketed but dismissed for lack of jurisdiction.

This Board has been given the responsibility of ensuring that all final ISDA decisions are published as required by 25 C.F.R. § 900.169. Therefore, the HHS Appeals Board, if it receives an appeal, is requested to provide this Board with a copy of its decision, so that the decision may be published.

Kathryn A. Lynn
Chief Administrative Judge

Anita Vogt
Administrative Judge